IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2110 of 1993
WITH
FIRST APPEAL NO 1851 OF 1993
FIRST APPEAL NO 1852 OF 1993
FIRST APPEAL NO 1853 OF 1993
FIRAT APPEAL NO 2019 OF 1993
FIRST APPEAL NO 2053 OF 1993
FIRST APPEAL NO 2060 OF 1993
FIRST APPEAL NO 2063 OF 1993
FIRST APPEAL NO 995 OF 1994
FIRST APPEAL NO 996 OF 1994
FIRST APPEAL NO 997 OF 1994

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA
and
Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SPECIAL LANDACQUISITION OFFICER
Versus
KOLI SAVDAS UGARA SINCE DECEASED THRO'HIS HEIRS & LRS.

Appearance:
1. First Appeal No. 2110 of 1993
MS PJ DAVAWALA for Petitioner No. 1
MR. S.P. AGP IN FA NO. 2110, 1851, 1852, 1853, 2019 and 2053 of 1993, AND MR. L.R. PUJARI IN FA NO. 2060,

2063 OF 1993, FA NO. 995, 996 AND 997 OF 1994 FOR
SPECIAL LAND ACQUISTION OFFICER
MR VIPUL S MODI for Private Respondents.

CORAM : MR.JUSTICE B.J.SHETHNA
and
MR.JUSTICE N.G.NANDI

Date of decision: 26/02/2002

COMMON ORAL JUDGEMENT
(Per : MR.JUSTICE B.J.SHETHNA)

1. All these appeals will have to be disposed of in terms of the common judgment & order dated 16-3-1996 passed by the Division Bench of this Court (N.J. Pandya & A.R. Dave, JJ) as they are squarely covered by the said judgment. Accordingly, all these First Appeals are disposed of in terms of the impugned Common Judgment & Order dated 16-3-1996. However, at this stage it was brought to our notice that Hon'ble Supreme Court in case of State of Maharashtra Vs. Babubhai Govindbhai, reported in A.I.R. 1996, S.C. pg. 904, held that, it was not proper on the part of the Government to deduct 5 % Government share in the new tenure land. In view of the judgment of the Hon'ble Supreme Court Ms. Davawala for the appellant in all these appeals frankly conceded that,that part of the order passed by the Learned Judge is required to be modified. It was further submitted by Shri. Vipul Modi for the private respondents-claimants in all these appeals that, Constitutional Bench of Hon'ble Supreme Court recently held in case of SUNDER VS. UNION OF INDIA, 2001 (3) G.L.H. pg. 441 that, the claimants are entitled for statutory benefits under section 23 (1) (a) i.e. interest on solatium, therefore irrespective of the fact whether they have claimed it or not, same is required to be granted. This was also not disputed by Learned counsel Ms. Davawala for the appellants in all these appeals.

2. In view of the above discussions, all these appeals are allowed in terms of the judgment of the Division Bench of this Court (Coram: N.J. Pandya & A.R. Dave, JJ) dated 16-3-1996 delivered in First Appeal No. 2091 of 1993 and allied appeals and the impugned common judgment & award passed by Learned Judge deducting 5 % Government share for new tenure land is hereby quashed and set aside. The appellants shall now pay interest on

solatium to all the respondents/claimants as required under Section 23 (1) (a) of the Land Acquisition Act.

3. Accordingly all these appeals are allowed with no order as to costs. The appellants shall now deposit the entire awarded amount before the Reference Court on/or before 31-5-2002.

Dt: 26-2-2002 (B.J. Shethna, J)

(N.G. Nandi, J)

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